

Jesse Aron Ross
Name
Hop P.O. Box 650
Indian Springs NV 89010
#1095756
Prison Number

FILED ENTERED	RECEIVED SERVED ON COUNSEL/PARTIES OF RECORD
OCT 15 2018	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

Jesse Alan Ross, Plaintiff,
vs.
E.A. Thompson,
Jennifer Nash,
Brinn Williams,
Herald Wickham,
Defendant(s).

2:18-cv-01992-JAD-CWH

CIVIL RIGHTS COMPLAINT

**PURSUANT TO
42 U.S.C. § 1983**

28 USC § 1367; NRS 41.031, 41.032,
41.0322

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, Jesse Ross,
(Print Plaintiff's name)
who presently resides at 22010 N.V.
Cold Creek Rd-Indian Springs NV 89010 were
violated by the actions of the below named individuals which were directed against
Plaintiff at High Desert, Indian Springs on the following dates
(institution/city where violation occurred)

6) Defendant James Ozurenda resides at Same As No : 5
(full name of first defendant) (address if first defendant)
and is employed as NDOC-Director. This defendant is sued in his/her
 individual official capacity. (Check one or both). Explain how this defendant was
acting
under color of law: Same As No : 1

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1333 (a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

28 USC § 1333 supplemental Jurisdiction over state
Law claims, NRS 41.031

B. NATURE OF THE CASE

- 1) Briefly state the background of your case.

This action Address conditions of confinement
@ Nevada Department of Correction, ("NDOC"),
High Desert State Prison ("HDSP") Administrative
Segregation ("AS") in Relation to denial
of outdoor Recreation / Exercise Yard
With State Law Counter parts, Requesting
monetary, declaratory, Injunctive & costs

C. CAUSE OF ACTION

COUNT I

The following civil rights has been violated: denial of out door exercise,
A Violation of the 8th Amendment, U.S. Const.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendants: E.A. Thompson; Jennifer Nash; Brian Williams; Harold Wickham.
On 1-23-18, Plaintiff was transferred from unit 11-E-27-A (A Protective segregation unit unit ("PSU")), to unit 5-D-40, A Red tag cell, or Ad-seg-cell. In unit 5-D-40 Plaintiff received No day room activities, A shower 3 times per week, No visits, No Law Library (direct access), And A highly restrictive environment, Atypical in comparison to "PSU". In FACT, Plaintiff was subjected to 24 hours 7 days A week in-cell-Solitary Confinement. From 1-23-18 to 3-27-18 Plaintiff was confined in solitary confinement with NO outdoor exercise YARD. This 64 days of NO yard caused Plaintiff substantial Physiological & Psychological Harm. Plaintiff is clinically diagnosed with (1) Depression (2) Anxiety. Plaintiff is on the maximum dose of

1 Psychootropic medication for Depression (45 mg of
2 Remeron) and Anxiety (30 mg of Buspar), twice daily
3 During this period of confinement Plaintiff did
4 Not go to the Available "Dog Run" yard,
5 offered; Because there was No water or
6 Bathroom ACCESS on this "Dog Run yard"
7 (see Herns-v-Terhune 413 F.3d 1036 [9th Cir
8 2005]), And when offenders are sent on this
9 [Satelite] "Dog Run yard" offenders are often
10 Left out there for hours 1-3 hrs with
11 No ACCESS to water/ toilet. As A result of ..
12 Not having Access to this yard Plaintiff's
13 mental health issues became much worse Plaintiff
14 experienced Suicidal Ideation, debilitating
15 depression, Anxiety, Panic Attacks, nightmares,
16 and experienced significant Muscle Atrophy.
17 Furthermore Plaintiff had A constitutional
18 right to 8 hours of yard per week
19 (Adams-v-Wulf 624 F. Supp, 1036
20 D. Nev 1985; † Toussaint-v-McCarthy
21 597 F. Supp 1388 @ 1402, 1412 n.d. Cal. 1984 -
22 Affirmed as to yard 801 F.2d 1080 9th Cir
-1986) And 42 day or 6 weeks is the
23 threshold for A Constitutional claim IN Re:
24 yard (Lopez-v-Smith 203 F.3d 1122
25 @ 1133 N.15 Their 2000; Allen-v-Sakai
26 48 F.3d 1082 9th Cir 1995), † Adams-v-Wulf

1 624 F.Supp 1036 D.Mev 1985). This is
2 Not an isolated occurrence, As Plaintiff was
3 Denied yard from 12-18-12 to 10-3-13 for
4 the same reasons.

5 Plaintiff Notified the defendant, and Nothing
6 Was Done.

7 On 2-2-18 Plaintiff filed A Informal
8 grievance (# 2006-30-61529) stating that
9 the lack of toilet Facilities and drinking
10 center was Preventing me from Accessing The
11 Yard. This "Dog Run Yard" (Yard), is
12 A tiny Chainlink cage, detached from the
13 building, Fully exposed to sun, no shade.

14 ON 2-22-18 E.A. Thompson denied Plaintiff's
15 Informal grievance Due to costs associated with
16 Adding water & toilets, Defendant Jennifer Nash ("Nash")
17 Was also Aware of the Constitutional violation
18 As Associate warden, "Nash" signed the
19 Denial of the grievance. As such Plaintiff timely
20 Appealed to the First Level grievance, which was
21 Assigned Jointly to Brian Williams and Jennifer
22 Nash, who Jointly denied Plaintiff's grievance.
23 Plaintiff timelyAppealed to the Second Level
24 of the grievance process. Defendant Harold Wickham
25 Sent A Lt. Murella to investigate the issue.

26 @ About Midnite to 0030hrs I was awoken
27 from my sleep. I explained my position to

1 The Lt. Provided him with the Case Law
 2 Citations. In the 2nd Level grievance
 3 Response "Wickham" cited the relevant 9th
 4 Circuit Case "Hearns" & "Partially granted"
 5 Plaintiff's grievance stating "I agree having
 6 toilet access would be optimal" --- "toilet
 7 Access on the Yards could not be accomplished
 8 without major construction projects" ---
 9 But Wickham refused to grant the Attached
 10 Administrative Claim Form for Damages, and
 11 refused to order toilets/water access
 12 on the Ad-seg Yard. Each of the above
 13 named defendants were aware of the
 14 Constitutionally deficient conditions, and
 15 Failed to Remedy the Lack of toilet/
 16 drinking water on the yard. Plaintiff is no
 17 longer in Segregation, Ad-seg; However this
 18 ~~Does~~ Does Not meet the Injunctive relief.
 19 Because There is A Narrow exception to the
 20 Mootness Principle for "cases capable of repetition
 21 yet evading review (weinstein-v-Bradford
 22 423 U.S. 147 @ 149 [1975])."

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COUNT II

The following civil rights has been violated: Negligence - State Law
Counterpart to count 1 - NRS 41.031

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Plaintiff selectively Incorporates The List
of Defendants in Count 1 and the Statement
of Facts in its entirety here in.

As such under Nevada Law, each
person named had A duty to uphold the
grievances, to provide Access to yard with
water/tiolet access, each Failed in theyre
duties to Plaintiff- these Failures are
the CAUS of Plaintiff's Physiological / Psycho-
logical DAmages.

Butler EX. Rel. Biller -v- Baoyer 123 Nev. 450
168 P.3d 1055 @ 1065 nev. 2007

COUNT III

The following civil rights has been violated: Negligent training / Supervision,
STATE LAW Claim - NRS 41.031

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Defendant: James Ozurenda Plaintiff
Selectively incorporates the Statement of Facts in Count 1 Herein.
James Ozurenda is The NDOC Director ~~or~~ Conducting Activity through Defendants Thompson, Nash, Williams, and Wicksman.
Ozurenda Hired, Appointed and/or retained these Agents. Upon information and belief, these agents are the subjects of numerous other civil suits for tortious conduct relating to their employment with NDOC. Under STATE LAW James Ozurenda Has Failed to train and supervise these tortfeasors Both in a negligent & Reckless manner. Restatement of Agency (Second) § 213. The Nevada Supreme Court has cited Restatement (Second) of Agency AS AN Authoritive SOURCE SEE, e.g., Anderson v. Manda Lang Corp. 358 P.3d 242 @ 247 NEV. 2015

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the same or similar facts as involved in this action? Yes No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below

COUNT 4

The following civil rights has been violated: Intention Infliction
of emotional distress - State Law Counterpart
to Count 1

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

~~Defendants~~: Plaintiff selectively incorporates the defendants by the statement of facts in Count 1 herein.

As such, each one of these defendants failure to execute their pre-existing duties were, extreme, outrageous, and reckless, said failure caused Plaintiff substantial psychological distress, including sadness, Anxiety, Panic Attacks (Extreme Sharp Chest Pain, And other physiological responses), Extreme depression/suicidal ideation.

Dillard Dept stores, Inc -v- Beck with
11 S Nev. 372 Nev. 1999.

outline).

- a) Defendants: _____
- b) Name of court and docket number: _____
- c) Disposition (for example, was the case dismissed , appealed or is it still pending?):

- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____
- 2) Have you filed an action in federal court that was dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?
 Yes ____ No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)
- Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:
- a) Defendants: Nye County _____
- b) Name of court and case number: Unknown - CSDC - n-mu before Dawson KJD
- c) The case was dismissed because it was found to be (check one): ____ frivolous
____ malicious or failed to state a claim upon which relief could be granted.
- d) Issues raised: Strip Searches _____
- e) Approximate date it was filed: 12-12-12
- f) Approximate date of disposition: Unknown
- Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:
- a) Defendants: NA _____
- b) Name of court and case number: _____

- c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
d) Issues raised: _____

e) Approximate date it was filed: _____
f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
b) Name of court and case number: _____
c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
d) Issues raised: _____

e) Approximate date it was filed: _____
f) Approximate date of disposition: _____

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? Yes _____ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) _____ disciplinary hearing; (2) _____ state or federal court decision; (3) _____ state or federal law or regulation; (4) _____ parole board decision; or (5) _____ other _____.

If your answer is "Yes", provide the following information. Grievance Number 2006-306-1529

Date and institution where grievance was filed 2-2-18 - HPSR

Response to grievance: I K denied First lv1 denied 2nd
lv1 Partially granted

E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

Count 1 : Compensatory \$5,000 Exemplary: \$ 2,500
Count 2 - 4 \$ 5,000 Each Compensatory, \$ 2,500
Exemplary, Declaratory Relief, costs, and
Injunctive relief requiring Drinking water/tuilets
be installed on the yard, Any & All relief the
Court deems necessary, and emergency call
Buttons be installed on these safe life yards

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

Self.

(Name of Person who prepared or helped prepare this complaint if not Plaintiff)

Jesse Ross
(Signature of Plaintiff)
Jesse A. Ross
9-29-18
(Date)

(Additional space if needed; identify what is being continued)

Filed 10/15/18
TOSST#1095756
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Indian Springs NV 89407

Clerk
USBG - D. Nev.

LLOYD D. GEORGE U.S. COURTHOUSE

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